

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

Senate Engrossed House Bill

FILED

MICHELE REAGAN
SECRETARY OF STATE

CHAPTER 171
HOUSE BILL 2497

AN ACT

AMENDING SECTIONS 36-841 AND 36-851.01, ARIZONA REVISED STATUTES; RELATING
TO THE REVISED UNIFORM ANATOMICAL GIFT ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-841, Arizona Revised Statutes, is amended to
3 read:

4 36-841. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Adult" means an individual who is at least eighteen years of
7 age.

8 2. "Agent" means an individual who is either:

9 (a) Authorized to make health care decisions on the principal's
10 behalf pursuant to a health care power of attorney.

11 (b) Expressly authorized to make an anatomical gift on the
12 principal's behalf pursuant to any other record signed by the principal.

13 3. "Anatomical gift" means a donation of all or part of a human
14 body to take effect after the donor's death for the purpose of
15 transplantation, therapy, research or education.

16 4. "Decedent" means a deceased individual whose body or part is or
17 may be the source of an anatomical gift. Decedent includes a stillborn
18 infant and, subject to restrictions imposed by any other law, a fetus.

19 5. "Disinterested witness" means a witness other than the spouse,
20 child, parent, sibling, grandchild, grandparent or guardian of the
21 individual who makes, amends, revokes or refuses to make an anatomical
22 gift, or another adult who exhibited special care and concern for the
23 individual. Disinterested witness does not include a person to which an
24 anatomical gift could pass pursuant to section 36-850.

25 6. "Document of gift" means a donor card or other record that is
26 used to make an anatomical gift. Document of gift includes a statement or
27 symbol on a driver license, identification card or donor registry.

28 7. "Donor" means an individual whose body or part is the subject of
29 an anatomical gift.

30 8. "Donor registry" means a database that contains records of
31 anatomical gifts.

32 9. "Driver license" means a license or permit that is issued
33 pursuant to title 28 to operate a vehicle, whether or not conditions are
34 attached to the license or permit.

35 10. "Eye bank" means a person that is licensed or regulated under
36 federal or state law or is accredited by a nationally recognized
37 accrediting agency to engage in the recovery, screening, testing,
38 processing, storage or distribution of human eyes or portions of human
39 eyes.

40 11. "Guardian" means a person who is appointed by a court to make
41 decisions regarding the support, care, education, health or welfare of an
42 individual. Guardian does not include a guardian ad litem.

43 12. "Hospital" means a facility that is licensed as a hospital under
44 the laws of any state or that is operated as a hospital by the United
45 States, a state or a subdivision of a state.

1 13. "Identification card" means a nonoperating identification
2 license that is issued by the motor vehicle division of the department of
3 transportation.

4 14. "Know" means to have actual knowledge.

5 15. "Minor" means an individual who is under eighteen years of age.

6 16. "NONTRANSPLANT ANATOMICAL DONATION ORGANIZATION" MEANS A TISSUE
7 BANK OR OTHER ORGANIZATION THAT FACILITATES NONTRANSPLANT ANATOMICAL
8 DONATIONS, INCLUDING FACILITATION THROUGH REFERRALS, OBTAINING INFORMED
9 CONSENT OR AUTHORIZATION AND ASSESSING DONOR ACCEPTABILITY AND THROUGH THE
10 ACQUISITION, TRACEABILITY, TRANSPORTING, PREPARATION, PACKAGING, LABELING,
11 STORAGE, RELEASE, EVALUATING INTENDED USE, DISTRIBUTION AND FINAL
12 DISPOSITION OF NONTRANSPLANT ANATOMICAL DONATIONS.

13 ~~16.~~ 17. "Organ procurement organization" means a person that is
14 designated by the secretary of the United States department of health and
15 human services as an organ procurement organization.

16 ~~17.~~ 18. "Parent" means a parent whose parental rights have not been
17 terminated.

18 ~~18.~~ 19. "Part" means an organ, eye or tissue of a human being.
19 Part does not include the whole body.

20 ~~19.~~ 20. "Person" means an individual, corporation, business trust,
21 estate, trust, partnership, limited liability company, association, joint
22 venture, public corporation, government or governmental subdivision,
23 agency or instrumentality, or any other legal or commercial entity.

24 ~~20.~~ 21. "Physician" means an individual who is licensed as a
25 physician pursuant to title 32, chapter 13 or 17.

26 ~~21.~~ 22. "Principal" means a person who is the subject of a health
27 care power of attorney.

28 ~~22.~~ 23. "Procurement organization" means any of the following:

29 (a) An organ procurement organization.

30 (b) A tissue bank.

31 (c) An eye bank.

32 (d) A storage facility that is licensed, accredited or approved
33 under federal law or the laws of any state to engage in the recovery,
34 screening, testing, processing or storage of human bodies or parts.

35 (e) A NONTRANSPLANT ANATOMICAL DONATION ORGANIZATION.

36 ~~23.~~ 24. "Prospective donor" means an individual who is dead or near
37 death and who has been determined by a procurement organization to have a
38 part that could be medically suitable for transplantation, therapy,
39 research or education. Prospective donor does not include an individual
40 who has made a refusal.

41 ~~24.~~ 25. "Reasonably available" means able to be contacted by a
42 procurement organization without undue effort and willing and able to act
43 in a timely manner consistent with existing medical criteria necessary for
44 the making of an anatomical gift.

~~25.~~ 26. "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

~~26.~~ 27. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~27.~~ 28. "Refusal" means a record created pursuant to section 36-846 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

~~28.~~ 29. "Sign", with respect to the present intent to authenticate or adopt a record, means either:

(a) To execute or adopt a tangible symbol.

(b) To attach to or logically associate with the record an electronic symbol, sound or process.

~~29.~~ 30. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

~~30.~~ 31. "Technician" means an individual who is determined to be qualified to remove or process parts by an appropriate organization that is licensed or regulated under federal or state law or is accredited by a nationally recognized accrediting agency. Technician includes an enucleator.

~~31.~~ 32. "Tissue" means all or a portion of the human body other than blood, an organ or an eye unless the blood, organ or eye is donated for the purpose of research or education.

~~32.~~ 33. "Tissue bank" means a person that is licensed or regulated under federal or state law or is accredited as a tissue bank by a nationally recognized accrediting agency to engage in the recovery, screening, testing, processing, storage or distribution of tissue.

~~33.~~ 34. "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

Sec. 2. Section 36-851.01, Arizona Revised Statutes, is amended to read:

36-851.01. Procurement organizations; licensure; renewal; fees; penalties; exceptions

A. A person may not act as a procurement organization in this state unless the person is licensed by the department of health services as a procurement organization. The person shall apply in writing to the director of the department on a form specified by the director, shall include all information requested in the application and shall pay the fees prescribed by the director.

B. The director shall grant a procurement organization license to a person if the organization either is accredited by a nationally recognized accrediting agency that is approved by the department of health services and maintains full accreditation with the accrediting agency or meets the

1 requirements prescribed in section 36-851.03 and the rules adopted by the
2 department.

3 C. A license under this section is valid for two years and must be
4 renewed every two years. A person shall file an application for renewal
5 at least thirty days before the expiration of the current license.

6 D. Each procurement organization applying for licensure or license
7 renewal under this section shall pay all applicable fees as prescribed by
8 the director. All fees collected pursuant to this section for the
9 licensure and license renewal of procurement organizations shall be
10 deposited in the health services licensing fund established by section
11 36-414.

12 E. The director may sanction, impose civil penalties on or,
13 pursuant to title 41, chapter 6, article 10, suspend or revoke, in whole
14 or in part, the license of any procurement organization if any person who
15 is an owner, officer, agent or employee of the procurement organization is
16 in or continues to be in violation of this article or the rules of the
17 department of health services adopted pursuant to this article.

18 F. This section does not apply to any of the following:

19 1. An organ procurement organization as described by 42 United
20 States Code section 273 that is designated for this state by the secretary
21 of the United States department of health and human services pursuant to
22 42 United States Code section 1320b-8.

23 2. A procurement organization that is regulated by the United
24 States food and drug administration in connection with the recovery of
25 human tissue intended for transplantation pursuant to 21 Code of Federal
26 Regulations part 1270.

27 3. A procurement organization as defined in section 36-841,
28 paragraph 22 23, subdivision (d).

29 4. A procurement organization that is affiliated with an accredited
30 educational institution in connection with the education of students
31 enrolled in a degree-granting program for health professionals.

32 5. A procurement organization that ~~is affiliated with an accredited~~
33 ~~hospital as defined in section 36-401 for the recovery of RECOVERS~~
34 ~~anatomical gifts for research, OR education, INCLUDING FOR quality~~
35 ~~improvement or quality assurance AND THAT IS AFFILIATED WITH A HOSPITAL~~
36 ~~THAT IS LICENSED PURSUANT TO CHAPTER 4 OF THIS TITLE.~~

37 6. A HOSPITAL THAT IS LICENSED PURSUANT TO CHAPTER 4 OF THIS TITLE.

APPROVED BY THE GOVERNOR APRIL 18, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2017.

Passed the House February 22 20 17

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

☐ Pro Tempore

[Signature]
Chief Clerk of the House

Passed the Senate March 23, 2017

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

17th day of April, 20 17

at 8:52 o'clock A M.

[Signature]
Secretary to the Governor

Approved this _____ day of _____

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State

H.B. 2497

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 13, 2017,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17th day of April, 2017,

at 8:52 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 18th day of

April, 2017,

at 10:48 o'clock A M.

[Signature]
Governor of Arizona

H.B. 2497

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 2017,

at 4:12 o'clock P M.

[Signature]
Secretary of State